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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,604	02/12/2001	Jesse Sharp	00664187	3809
26565	7590	07/17/2006	EXAMINER	
MAYER, BROWN, ROWE & MAW LLP			POINVIL, FRANTZY	
P.O. BOX 2828			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690-2828			3628	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/781,604	SHARP ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Frantzy Poinvil	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

WHENEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 May 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 112, 113, 121-125, 130-140, 218-228, 230, 233-236 and 238-246 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 112, 113, 121-125, 130-140, 218-228, 230, 233-236, 238-246 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters:

As per claim 112, the Examiner suggests inserting - -system- - after “marketplace” so that the claim is actually directed to a system claim as being one of the statutory classes. On line 11, the term “portion” should be deleted for better readability purpose. On lines 14-15, it is recited “the exception management system comprises the steps of”. It is unclear as to how a system comprises “steps”. The Examiner suggests replacing “steps” with - -means- - so that the remaining limitation contains means plus function language.

As per claim 113, line 1, “A marketplace” should be changed to “A freight transportation marketplace system”.

As per claims 121-125, the Examiner suggests inserting - -system- - after “marketplace”.

As per claim 122, line 2, the phrase “the order fulfillment system further comprises accessorial events...” should be in a “means-plus function format.

As per claim 123, line 2, the phrase “the accessorial fee update system comprise the seller providing...” should be in a “means-plus function format.

As per claim 130, the Examiner suggests inserting - -system- - after

“marketplace” so that the claim is actually directed to a system claim as being one of the statutory classes of invention. . On line 18, the term “portion” should be deleted for better readability purpose.

As per claim 134, lines 2-4, it is unclear as to how a buyer comprises a privilege...; and a scope.

As per claim 135, it is unclear how a seller comprises a privilege and a scope.

As per claims 131-139, the Examiner suggests inserting - -system- - after “marketplace”.

As per claim 140, the Examiner suggests inserting - -system- - after “marketplace” so that the claim is actually directed to a system claim as being one of the statutory classes. On line 38, the phrase “an action defining system, comprising...” should be in a “means-plus function format.

As per claim 218, it is recited “the exception management system comprises the steps of”. It is unclear as to how a system comprises “steps”. The Examiner suggests replacing “steps” with - -means- - so that the remaining limitation contains means plus function language.

As per claims 227 and 28, the claims do not introduce a preamble and appears to be directed toward a system. However, it further appears that no means or structure is recited in the claim. The Examiner suggests introducing language in the claim to recite means or structure therein so that the claim complies with 35 USC 112, second paragraph.

As per claim 241, lines 2-4, it is unclear as to how a buyer comprises a privilege...; and a scope.

As per claim 242, it is unclear how a seller comprises a privilege and a scope.

The applicant is advised to review the remaining pending claims for any possible deficiencies. The Applicant is requested to make the necessary amendment correcting all noted and other possible deficiencies that may be found in the instant claims.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. Claims 112-113, 121-125, 130140, 218-228, 230, 233-234 and 238-246 are allowable over the art of record.

### **Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:30AM to 6:00PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached at (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 3628**

FP  
July 8, 2006